IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

(Attorney Docket No. 14189US02)

In the Application of:	**Electronically filed: October 16, 2007**
Richard Martin, Yong Kim	
Serial No. 10/658,450	
Filed: September 9, 2003	
For: System and Method for Access Point (AP) Aggregation and Resiliency in a Hybrid Wired/Wireless Local Area Network	
Examiner: Simon A. Goetze	
Group Art Unit: 2617	
Confirmation No. 4742	

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicant requests review of the final rejection in the above-identified application, stated in the Final Office Action mailed on June 25, 2007 (hereinafter, the Final Office Action) and the Advisory Action mailed on September 17, 2007 (hereinafter Advisory Action). No amendments are being filed with this request.

This request is being filed with a Notice of Appeal and a petition for extension under 37 CFR 1.136(a). The review is being requested for the reasons stated on the attached sheets.

REMARKS / ARGUMENTS

The present application includes pending claims 1-25, all of which have been rejected. Claims 1-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent No. 6,032,194 issued to Gai et al. (hereinafter, Gai et al.), in view of U.S. Patent Application Publication 2004/0047320, by Eglin, (hereinafter, Eglin). The Applicant respectfully traverses these rejections at least for the reasons previously set forth during prosecution and at least based on the following remarks.

REJECTION UNDER 35 U.S.C. § 103

I. The Proposed Combination of Gai et al. and Eglin Does Not Render Claims 1-25 Unpatentable

The Applicant now turns to the rejection of claims 1-25 as being unpatentable over Gai et al. in view of Eglin. The Applicant notes that the proposed combination of Gai et al. and Eglin forms the basis for all of the pending rejections.

A. The Proposed Combination Does Not Teach or Suggest "determining at least one available switch port having a capability to handle a first access point group, said first access point group having a first default switch port"

Initially, the Applicant draws the Examiner's attention to the fact that in the Final Office Action, the claim rejections made under 35 USC §103 refer to an incorrect set of claims. For example in claim 1, the Examiner uses the term 'first local area network' instead of 'first access point group.' The difference, as pointed out below, however, is significant. Nonetheless, the Examiner's comments on page 2 and page 3 in response to the Applicant arguments set forth in the First Office Action refer to the correct formulation. However, because the examiner equates 'access point group' with 'local area network' at the bottom of p. 2 of the Final Office Action, the Applicant assumes that the substantive analysis presented by the Examiner remains valid. For at least this reason, the Applicant respectfully requests review of the claim rejections.

With regard to the rejection of independent claim 1 under Gai et al., the Applicant maintains that the combination of Gai et al. and Eglin does not disclose at least the limitation of "determining at least one available switch port having a capability to handle a first access point group, said first access point group having a first default switch port," as recited by the Applicant in independent claim 1. The Applicant acknowledges the arguments put forth by the examiner in the Final

Office Action and the Advisory Action.

The Final Office Action refers for support in Gai et al, col.7, lines 20-30, to the following:

> Network 100 further includes a plurality of servers 112a-112c, such as file servers, print servers, etc., each coupled to the local port 118 of one or more access or backbone switches. *Each LAN 102-109 includes one or more hosts or end stations (not shown) that may source or sink data frames to one another or to the servers 112a-112c over the network 100.* One or more routers 130 and 131 may also be provided to add functionality to network 100. Preferably, each router 130, 131 is coupled to a backbone switch, such as backbone switches 120 and 121, by a corresponding link 128. (Emphasis added)

The Applicant submits that the above paragraph from Gai et al. referenced in the Final Office Action does not indicate or suggest that Gai et al. teach any part of "determining at least one available switch port having a capability to handle a first access point group, said first access point group having a first default switch port". Based on the above paragraph, Gai et al. simply describes a network topology. The Final Office Action states "Gai et al. discusses the selection of available ports on a network switch to which local area networks (i.e. access point groups) are connected." Furthermore, the Advisory Action adds "available switch ports are selected to support a connected local area network to perform communication. . . . because the selected port has the capability to handle the communication as indicated by the reference stating that the connected local area network can access the network and perform sourcing and sinking of data".

The Applicant acknowledges the argument put forward but submits that access point groups are *not* equivalent to local area networks. This may be illustrated in the Applicant's FIG. 6 and FIG. 7 that illustrate how access point groups are connected to a local area network via switches. In accordance with MPEP §2111.01 "the USPTO must give claims their broadest reasonable interpretation in light of the specification." The Applicant therefore submits that the above cited passages do not read on the Applicants claims since access point groups are not mentioned and to equate access point groups with local area networks would be inconsistent with the specification disclosed by the Applicant.

No further additional arguments have been introduced by the Advisory Action.

Furthermore, the Final Office Action refers for support to Gai et al, col. 10, lines 49-67 and col. 11, 1-15. Gai et al. disclosed at col. 10, lines 49-53, the restriction, "For all LANs coupled to both an access switch and a backbone switch, operation of the above commands 300, 320, 330 also results in the respective backbone switch becoming the designated switch, rather than the access switch". The Final Office Action, however, does not provide any basis for why this passage

is relevant to "determining at least one available switch port having a capability to handle a first access point group". Accordingly, the Applicant respectfully submits that the rejection be withdrawn.

The Examiner further refers to col. 11, line 8-15 and lines 41-44 in Gai et al. to stipulate that "said first local area network having a first default switch" in the Applicant's limitation is unpatentable over Gai et al. The applicant points out that no mention of an access point group is made in the cited reference. Hence, the applicant fails to see the applicability of this reference.

Additionally, the Examiner states in the Final Office Action (page 4) that Gai et al. does not specifically disclose a hybrid wired/wireless local area network, as called for in independent claim 1 by the Applicant. The Applicant respectfully agrees.

The Applicant therefore, respectfully submits that Gai et al., alone or in combination with Eglin, cannot teach, nor suggest "determining at least one available switch port having a capability to handle a first access point group, said first access point group having a first default switch port", such as recited in claim 1.

Accordingly, the proposed combination of Gai et al. and Eglin does not render independent claim 1 unpatentable, and a *prima facie* case of obviousness has not been established. The Applicant submits that claim 1 is allowable. Independent claims 9 and 17 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 9 and 17 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

B. Rejection of Dependent Claims 2-8, 10-16 and 18-25

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 9 and 17 under 35 U.S.C. § 103(a) as being anticipated by Gai et al. in view of Eglin has been overcome and request that the rejection be withdrawn. Additionally, claims 2-8, 10-16 and 18-25 depend from independent claims 1, 9 and 17, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 1-25.

CONCLUSION

Based on at least the foregoing, the Applicant believes that all claims 1-25 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and request that the Examiner telephone the undersigned Attorney at (312) 775-8105.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

Date: October 16, 2007

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